

REMARKS

I. STATUS OF CLAIMS

Claims 1-8 are pending in the present Application. Claim 5 is rejected under 35 U.S.C. § 112 Second Paragraph ("Section 112, Par. 2") as being indefinite. Claims 1-4 are rejected under 35 U.S.C. § 102(b) ("Section 102(b)") as being anticipated by Scarlett (U.S. Pat. No. 2,486,987). Claim 5 is rejected under 35 U.S.C. § 103(a) ("Section 103(a)") as being unpatentable over the teachings of Scarlett in view of Stafford (U.S. Pat. No. D331,511). Claims 6-7 are rejected under Section 103(a) as being unpatentable over Scarlett in view of Haug (U.S. Pat. No. 3,940,100). Claim 8 is rejected under Section 103(a) as being unpatentable over Scarlett, in view of Haug, and further in view of Seydewitz (U.S. Pat. No. 919,257). Claims 3 and 4 have been canceled. New claims 9-20 have been added. No new matter has been added by new claims 9-20 as disclosure is found in the originally submitted specifications and drawings.

II. STATUS OF DRAWINGS

The drawings are objected to by the Examiner because they do not include the following reference sign(s) mentioned in the description: 21 on paragraph 29. The drawings are further objected to under 37 CFR 1.83(a) as not showing the two mortise corners being round in Figure 8. Applicant submits corrected drawings showing mortise corners being round in Figure 8B with this Amendment. The specifications in paragraph [0029] and [0030] have been amended to now correctly refer to the corresponding figures. The drawings have been further corrected to include missing reference sign(s) 21 in Figure 6A.

III. CLAIM OBJECTIONS

Claim 1 has been corrected as instructed by Examiner to now include the limitation "top" inserted after "gusset" in line 8 and "the" inserted before "second" in line 21.

IV. REJECTION UNDER 35 U.S.C. 112, Par. 2

In rejecting claim 5 under 35 U.S.C. 112, second paragraph the Examiner asserted that:

Regarding claim, the meets and bounds of the claim is unclear since claim 3 recites that the first mortise corner or the second mortise corner is square-edged while claim 5 recites that the first mortise corner and the second mortise corners are rounded. Therefore, it is unclear whether the first mortise corner or the second mortise corner is still square-edged. (Office Action, page 3).

Applicant respectfully submits amended claims 1 and 5, which have addressed the rejections by the Examiner. Accordingly, Applicant respectfully requests withdrawal of the rejection under Section 112, Par. 2.

V. REJECTION UNDER 35 U.S.C. 102(b)

In rejecting claims 1-4 under section 102(b) as being anticipated by Scarlett, the Examiner asserted that:

Regarding claim 1, Scarlett discloses in Figures 5 and 8 a double locking mortise joint comprising a first member and a second member...Regarding claim 2, the head bottom is not longer in length than the gusset top.

Regarding claim 3, the first mortise further comprises a first mortise corner and a second mortise corner. The first mortise corner is located between the first mortise end and the head bottom. The second mortise corner is located between the first mortise end and the gusset top. The first mortise corner or the second mortise corner is square edged.

Regarding claim 4, the first mortise corner and the second mortise corner are square-edged. (Office Action, pages 4-5).

SCARLETT (2,486,987)

Scarlett discusses a prefabricated chair comprising a plurality of component parts temporarily interfitted. (col. 1, lines 2-3).

Claims 1-4, Scarlett

Claim 1 of the application, as amended, recites a limitation that the second mortise contains at least one rounded mortise corner, "wherein said first mortise further comprises a first corner and a second mortise corner, said first mortise corner being located between said first mortise end and said head bottom, said second mortise corner being located between said first mortise end and said gusset top, and at least one of said two mortise corners is rounded."

The joint mentioned in Scarlett is formed by interlocking a first member with a square edged first mortise and a second member with a square edged second mortise, whereas the Applicant's double locking mortise joint uses a second member having a first mortise corner and second mortise corner with "at least one of said two mortise corners is rounded" (amended Claim 1). Scarlett in no manner recites anywhere a double locking mortise joint comprising of mortise corners with at least one mortise corner rounded and neither is such rounded mortise corner shown in Scarlett's Figure 3 or Scarlett's Figure 8. For this reason, claim 1 is not anticipated by Scarlett and is believed to be allowable under Section 102(b).

Claim 2 depends directly or indirectly on claim 1 and includes all of claim 1's limitations. Therefore, claim 2 is allowable over Scarlett under Section 102(b) for at least the same reasons as is claim 1. Claims 3 and 4 have been canceled.

For the above reasons, Applicant respectfully requests withdrawal of the rejection of Claims 1 and 2 under Section 102(b).

VI. REJECTION UNDER 35 U.S.C. 103(a)

As mentioned above, claim 5 stands rejected under Section 103(a) as unpatentable over Scarlett, in view of Stafford. Claims 6-7 stand rejected under Section 103(a) as being unpatentable over Scarlett in view of Haug. Claim 8 stands rejected under Section 103(a) as unpatentable over Scarlett in view of Haug and Seydewitz.

Applicant respectfully traverses Examiner's rejections as explained below.

A. STAFFORD (D331,511)

Stafford discloses an ornamental design for a table.

In rejecting claim 5 as being unpatentable, the Examiner stated that:

Regarding claim 5,...Scarlett... fails to disclose the first mortise corner and the second mortise corner being rounded. Stafford teaches in Figure 6 a first mortise corner and a second mortise corner being rounded; however, Stafford fails to mention the purpose of the rounded corners. It appears that the corners being rounded allow a second member being round and the corners conform to the round edge of the second member. Therefore, as taught by Stafford, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the corners be rounded to allow a second member being rounded. (Office Action, page 6).

Claim 5, Scarlett in view of Stafford

As explained in M.P.E.P. Section 706.02(j):

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The three above-mentioned criteria must exist at the time the claimed invention was made, according to the text of Section 103(a) itself. The Examiner has not established a prima facie case of obviousness using Scarlett in view of Stafford for at least the reasons stated below.

The first reason is as follows. There is no suggestion or motivation Stafford, to modify Scarlett to make amended claim 5 unpatentable. In particular, there is no suggestion or motivation in the prior art to modify Scarlett to obtain the limitations recited in claim 5 of a "double locking mortise joint" that includes a "first mortise further comprises a first corner and a second mortise corner, said first mortise corner being located between said first mortise end and said head bottom, said second mortise corner being located between said first mortise end and said gusset top, ...wherein both of said two mortise corners are rounded." There is no suggestion in Scarlett for a double locking mortise joint with rounded mortise corners. In fact, Scarlett teaches away from a double locking mortise joint with rounded mortise corners by teaching a joint with square edged mortise corners.

Moreover, Applicant's amended claim 5 limitation of a "first mortise further comprises a first corner and a second mortise corner,... wherein both of said two mortise corners are rounded" is also not suggested or motivated by Stafford in combination with Scarlett. In fact, Stafford is a design patent for an ornamental design for a table. The Stafford design patent merely discloses an outside appearance of a table. The patent does not elaborate further on the claims, which makes it impossible to

accurately determine what type of mechanism is employed in the Stafford table. The Stafford patent does not disclose a double locking mortise joint, nor does it disclose that one or both of the mortise corners are rounded. At most there is a just one mortise shown, however nowhere is there a second mortise shown. Stafford appears to show a rounded table edge without any mortise.

Furthermore, even if the table leg in Stafford were to serve as a first mortise, there is no mention of a "first and second contact surface next to said first mortise end" and neither is there a "second mortise having two opposing sides being generally parallel to each other, and a second mortise end connecting said two opposing sides". Stafford serves to teach away from any of these limitations by simply showing a circular tabletop devoid of any mortise having two opposing sides. It would seem counterintuitive to combine anything shown in Stafford with Scarlett. To modify the seemingly glass looking table of Stafford to create second mortises having two opposing sides would defeat the appearance of the table to be contained within the clamped shell-looking table legs. From all appearances, the table is a smooth edged suggesting no second mortise. In addition, there is no motivation to have second mortises in Stafford because the additional support members in Stafford arise from the horizontal support members at the bottom of the table. Applicant respectfully requests Examiner to point out where in Stafford two mortise corners are disclosed on the table top and wherein both of the corners are rounded.

Accordingly, for the just-described first reason, no prima facie case of obviousness can be established for claim 5.

The second reason is as follows. Scarlett in view of Stafford does not include all limitations of claim 5. For example neither Scarlett nor Stafford disclose a double locking mortise joint that comprises a first mortise with a first corner and a second mortise corner wherein "both of two mortise corners are rounded." Accordingly, no prima facie case of obviousness can be established for claim 5.

Thus, two of the three elements required for a rejection under Section 103(a) are missing with regard to claim 5. The lack of any one of the three elements would make

claim 5 allowable over the teachings of Scarlett in view of Stafford. The above-described actual lack of two elements even more clearly makes claim 5 allowable over Scarlett in view of Stafford.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 5 under Section 103(a).

B. HAUG (3,940,100)

Haug discloses "a modular construction element comprising a flat member having three equilaterally arranged legs and three equilaterally arranged, arc-shaped sides having equal radii of curvature, each of the legs having an open ended slot extending through its thickness, oriented toward the centroid of the element, and arranged equilaterally with the slots in the other legs." (Haug, col. 1, lines 31-37).

In rejecting claims 6-7 as being unpatentable, the Examiner stated that:

Regarding claims 6, Scarlett...fails to disclose the first member and the second member respectively being a table leg and a corner of a table top. Haug teaches in Figure 3 a first member being a table leg and a second member being a corner of a tabletop to make a table for sphere-shaped object. Therefore, as taught by Haug, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the first object a table leg and the second member a corner of a tabletop to make a table for a sphere-shaped object. Regarding claim 7, Scarlett discloses the first member comprises an inner side and an outer side. The inner side is substantially parallel to the outer side. (Office Action, page 6-7).

Claim 6-7, Scarlett in view of Haug

Claim 6 is dependent on Claim 1 and includes all of claim 1's limitations. Claim 7 is dependent on claim 6 and includes all of claim 6's limitations. Claim 1 as amended, recites a double locking mortise joint, "wherein said first mortise further comprises a first corner and a second mortise corner, said first mortise corner being located between said first mortise end and said head bottom, said second mortise corner being located between said first mortise end and said gusset top, and at least one of said two mortise corners is rounded." Scarlett or Haug do not anywhere, alone or in combination, teach or even suggest any such limitation in their respective structures. Nowhere does either Scarlett or Haug mention a double locking mortise joint where the "first member is a

table leg, and the said second member is a corner of a tabletop". Applicant respectfully disagrees with Examiner's assertion that Haug teaches a table leg and a corner of a tabletop. Haug rather discloses that the overall construction of four equilateral elements serves as support structures or stands for things like rounded or sphere shaped object and serves as holders for table tops. (See Haug, col. 1, lines 57-59 and col. 2, lines 2-3, emphasis added). In addition, Haug specifically teaches that it takes two or more of the four element groups to create a support of a flat plane surface, such as a table top. (See Haug, col. 3, lines 66-68, emphasis added). As such, because Haug shows that the elements are used as supporting structures or bases for tabletops, Haug teaches away from a the first member being a table leg and the second member being a corner of a tabletop. Applicant's second member in claim 6 is the corner of a tabletop whereas Haug teaches that the element groups support a tabletop. The tabletop in Haug is therefore a separate entity from the disclosed invention and forms no part of the "second member" as recited in Applicant's claim 6. Since Scarlett and Haug nowhere teach or suggest the limitations of the first member being the table leg and the second member being the tabletop, no prima facie case of obviousness can be established for claim 6.

In addition, neither are the additional limitations found in claim 1 recited anywhere in Haug in combination with Scarlett. For instance, nowhere is there taught or suggested in Haug that "at least one of said two mortise corners is rounded". Therefore not all the claim limitations of claim 6 are taught or suggested by the combination of Haug and Scarlett.

Claim 7 depends on claim 6 and includes claim 6's limitations. Therefore, claim 7 is allowable under Section 103(a) over Haug and Scarlett for at least the same reasons as in claim 6.

Accordingly for these reasons, no prima facie case of obviousness can be established for claims 6 and 7. Applicant respectfully requests withdrawal of the rejection of claims 6 and 7 under section 103(a).

C. SEYDEWITZ (919,257)

Seydewitz discloses knockdown furniture having supporting legs hinged together to fold about the vertical axis of the table. Arms formed upon the legs support a platen or shelf of the table. The table shelf is circular in form. (See col. 1, lines 42-44, 48-49, col. 2, lines 58-61, 74.)

In rejecting claim 8 as being unpatentable, the Examiner stated that:

Regarding claim 8, Scarlett, as modified by Haug, fail to disclose the inner side and the outer side have an equal curvature. It would have been obvious matter of design choice to modify the inner side and the outer side to have an equal curvature. Since applicant has not disclosed that the specific curvature of the first member solves any stated problem or is for any particular purpose, it appears that the first member would perform equally well with any suitable curvature. Seydewitz teaches an inner surface and an outer surface have an equal (the same) curvature. (Office Action, page 7).

Claim 8, Seydewitz, Haug and Scarlett

Claim 8 is dependent on claim 7 and includes all the limitations of claim 6 as well as all the limitations of claim 1 from which it depends. However, Scarlett, Haug or Seydewitz do not anywhere, alone or in combination teach or even suggest all the limitations of claim 8. For instance, claim 1 as amended, recites the first member has a first mortise "wherein said first mortise further comprises a first corner and a second mortise corner, said first mortise corner being located between said first mortise end and said head bottom, said second mortise corner being located between said first mortise end and said gusset top, and at least one of said two mortise corners is rounded." (emphasis added). In addition, claim 6 recites that the "second member is a corner of a tabletop". Nowhere does Scarlett, Haug or Seydewitz even mention or give rise to a motivation to modify or combine their teachings to have a double locking mortise joint with at least one of said mortise corners being rounded. Furthermore, nowhere in Scarlett or Haug, as mentioned earlier is there a mention or motivation to have a second member as the corner of a tabletop. Moreso, there is simply no motivation to take references already devoid of required elements found in claim 1 and combine it with Seydewitz which fails to show 1) the mortise corners of the first member being rounded and 2) a second member having a "second mortise having two opposing sides

being generally parallel to each other, and a second mortise end connecting said two opposing sides". Seydewitz in Figure 3 shows that the mortise corners are square edged and that the table top 22 in Figure 4 is smooth edged without any "second mortise". For these reasons, no prima facie case of obviousness can be established for claim 8.

Claim 8 depends on claim 7, which in turn depends on claim 6's limitations. Therefore, claim 8 is allowable under Section 103(a) over Seydewitz, Haug and Scarlett for at least the same reasons as in claim 6.

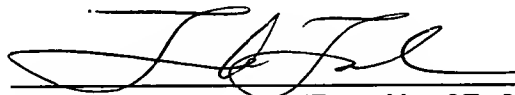
Accordingly, for these reasons, no prima facie case of obviousness can be established for claim 8. Applicant respectfully requests withdrawal of the rejection of claim 8 under section 103(a).

VII. CONCLUSION

The above-discussed amendments and remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

Date: July 24, 2003



Otto O. Lee (Reg. No. 37, 871)
Junecko Jackson (Reg. No. 48,870)
Intellectual Property Law Group LLP
Attorneys for Applicant

Atty Docket No.: WEAVER.PT1
Contact No.: 408-286-8933